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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

22188/06605

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on November 22, 2006

Signature Danielle Rudolph

Typed or printed name Danielle Rudolph

Application Number

10/721,312

Filed

11/25/2003

First Named Inventor

Robert Perusek

Art Unit

3753

Examiner

John C. Box

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 45,115

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Glen Smith

Signature

Kenneth J. Smith

Typed or printed name

216-622-8674

Telephone number

November 22, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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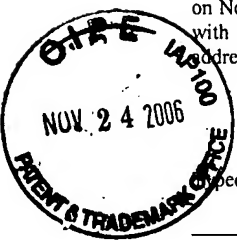
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Danielle Rudolph

Signature: *D Rudolph*



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/721,312	Confirmation No.	7073
Applicant	:	Robert V. Perusek et al.		
Filed	:	November 25, 2003		
TC/A.U.	:	3753		
Examiner	:	John C. Fox		
Docket No.	:	22188/06605		
Customer No.	:	24024		

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REASONS FOR REQUESTING PRE-APPEAL REVIEW

Sir:

These Reasons for Requesting Pre-Appeal Brief Review are being submitted concurrently with a Notice of Appeal, and a Pre-Appeal Brief Request for Review. Applicants respectfully request consideration of these reasons for requesting Pre-Appeal Brief Review.

Reasons begin on page 2 of this paper.

Reasons for Requesting Pre-Appeal Review

Claims 1, 3-7, 34, 35, and 39-42 are pending in this application. Claims 1-3, 6, 7, 34, 35, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,983,933 to Ohmi et al. ("Ohmi") and claims 4 and 5 under 35 U.S.C. 103(a) as being obvious in view of Ohmi.

Claim 1

Claim 1 is not anticipated by Ohmi. Claim 1 recites a bridge fitting that comprises a housing comprising a first port disposed at a first end portion of the housing connected to a second port disposed at a second end portion of the housing, with an internal fluid passageway joining said first port and said second port and spacing the first port and the second port apart; a first projection extending from a substantially planar surface of the first end portion of the housing and a second projection extending from a substantially planar surface of the second end portion of the housing, wherein at least one of the first and second projections is spaced apart from the first and second ports.

Ohmi does not disclose or suggest a first projection extending from a substantially planar surface of the first end portion of the housing and a second projection extending from a substantially planar surface of the second end portion of the housing, wherein at least one of the first and second projections is spaced apart from the first and second ports. See Ohmi, Figures 2 and 3.

The so called "planar surface" relied upon in the Office Actions is not a surface that is shown or suggested by Ohmi. Rather, the Office Action modifies Ohmi by sketching in a cross section plane (Applicants point out that the drawings used in the Office Action to illustrate the cross section are not even the Ohmi drawings. The drawings modified in the Office Action are taken from a reference that is not applied in the Office Action). See Office Action Dated 5/12/2006, p.3. The Office Action then asserts that the cross section is a planar surface and that material to one side of the sketched-in cross section is a projection. See Office Action Dated 5/12/2006, p.2 and Office Action Dated 8/24/2006, p.2. Applicant respectfully submits that a cross section is not a surface and just as importantly cannot fairly be said to represent a surface.

See Arguments Presented in Response dated July 31, 2006, pp.4-5. There is no evidence in the record that a cross sectional view of a solid body would be understood by one having ordinary skill in the art as being a surface of the solid body. A surface is understood as the exterior or outside of an object or body, the outermost or uppermost boundary, or one or more of the faces of a three-dimensional thing. See Webster's Third New International Dictionary (1986). Cross section views are merely drawing constructs used to illustrate hidden features and what a part would look like if the part were cut across the plane indicated by the cross section. Id. Claim 1 expressly recites the structure of a surface, not an imagined surface contrived in the Office Action. Although cross sections may be used to illustrate hidden features, cross sections are not used to create non-existent features.

The Office Action asserts that Figure 2 of the present application shows that a cross section can reasonably be considered a surface. Office Action dated 8/24/2006, p. 2. Applicant respectfully disagrees. The cross sectional view of Figure 2 is simply a drawing construct that shows what the components of Figure 1 would look like if the parts in the Figure 1 were cut along the plane indicated by lines 2-2 shown in Figure 1. See Patent Application, Brief Description of Drawings and Figure 2. However, as the Office Action points out, "a surface is the outer boundary of a three dimensional body. Office Action dated 8/24/2006, p. 2. The cross sectional view shown in Figure 2 does not represent and would not be understood by one skilled in the art to represent a non-existent structural feature. To accept the position argued in the Office Action is tantamount to saying that every plane that could be illustrated in a cross sectional drawing is a surface of the part shown in section. Such a conclusion is not logical and plainly is not consistent with how mechanical drawing cross sectional views are used, read or understood.

The Office Action asserts that "[i]n the instant application, that the body is a cubic body and the surface includes, by definition, a section through the solid body at the interface of the cubic body and the projection." Office Action dated 8/24/2006, p. 2. Applicant respectfully points out that the Office Action does not provide any support for the contention that a "surface includes, by definition, a section through the solid body at the interface of the cubic body and the projection." Id. To the contrary, the definition of a surface as "the outer boundary of a three

dimensional body,” asserted by the Office Action, necessarily excludes a section through the body, because such a section is not an outer boundary of the three-dimensional body. Id.

The Office Action states that “[n]othing in the claims precludes the projection from depending the from the entire surface.” Office Action dated 8/24/2006, p. 2. Applicant points out that if a so called “projection” of identical material supposedly “projects” from an entire so called “surface,” the body will have continuous side walls, as is the case in the block of the Ohmi patent, and no projection can be differentiated from the body as a whole.

The Office Action asserts that “mechanical drafting routinely treats surfaces, much like axes, as a construct which gives a reference point or describes a spatial relationship; again, Figure 2 of the instant application is a good example.” Office Action dated 8/24/2006, p. 2. Applicant respectfully points out that the Office Action is mistaking cross sectional views, which are indeed simply drawing constructs, for actual surfaces, which are defined by the Office Action itself as “the outer boundary of a three dimensional body.” Id. Simply because mechanical drawings may illustrate actual surfaces as references does not support a conclusion that cross sectional views somehow “create” a surface where none in fact exists. Claim 1 does not recite a “reference point,” it recites an actual physical surface or boundary of the claimed structure.

Claims 6 and 7

Claim 6 depends from claim 1 and recites that the first projection comprises a first boss extending from a lower surface of the housing. Claim 7 depends from claim 6 and further recites that the second projection comprises a second boss extending from a lower surface of the housing. Claims 6 and 7 are not anticipated by Ohmi, because Ohmi does not disclose a boss that extends from a lower planar surface of a housing. The Office Action has not established that claims 6 and 7 are anticipated by Ohmi, since the Office Action does not address the features of claims 6 and 7.

Claim 34

Claim 34 is not anticipated by Ohmi. Claim 34 recites a bridge fitting comprising: a housing including an upper surface and a substantially planar bottom-most surface, the housing further comprising:

a first port disposed on the upper surface of the housing;

a second port coplanar with the first port;

a U-shaped internal fluid passageway within the housing originating at the first port and terminating at the second port; and

a locating feature disposed on the bottom-most surface of the housing, the locating feature being spaced apart from the internal passageway.

Claim 34 includes features that are not shown or suggested by Ohmi. For example, Ohmi does not disclose or suggest a locating feature disposed on the bottom-most surface of the housing. The Office Action asserts that “a section at the same level as the bottom of the tube *can* be taken, resulting in a bottommost surface and a projection.” Office Action Dated 8/24/2006, p.2. A hypothetical drawing cross section cannot magically transform an inner portion of a solid into a bottom-most surface. Claim 34 is in condition for allowance.

Respectfully submitted,

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